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CLERK, U.S. DISTRICT COURT
DISTRICT OF NEVADA

BY _____ DEPUTY

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10 UNITED STATES DISTRICT COURT
11 DISTRICT OF NEVADA

12 GNLV, Corp., a Nevada corporation,

13 Plaintiff,

14 v.

15 MICHAEL BROOKS, an individual,
16 and THE LUCKY PARADISE
CASINO, an entity doing of unknown
17 origin doing business in North
Carolina,

18 Defendants.
19

Case No.: 2:13-cv-01219-APG-NJK

20 **ORDER FOR PRELIMINARY
INJUNCTION**

21 Pending before the court is plaintiff's motion for preliminary injunction. Plaintiff alleges six
22 causes of action, injunctive relief and damages. The causes of action are: (1) cybersquatting under
23 15 U.S.C. § 1125(d) (2) trademark infringement under 15 U.S.C. § 1114; (3) unfair competition
24 under 15 U.S.C. § 125(a); (4) common law trademark infringement; (5) deceptive trade practices
25 under N.R.S. 598.0903, et seq.; and (6) intentional interference with prospective economic
26 advantage.

27 A hearing on the motion for preliminary injunction was scheduled for August 7, 2013 at 9:00
28 a.m. The defendants were given notice of the hearing through communications with their attorney.

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1 Defendants have failed to respond to the motion for preliminary injunction.

2 The court has considered the motion filed by plaintiff GNLV, Corp. ("plaintiff" or "GNLV"),
 3 requesting a preliminary injunction requiring defendants Michael Brooks and The Lucky Paradise
 4 Casino (collectively "defendants") to immediately cease and desist all use of the
 5 <www.goldennuggetonlinecasinos.us> <www.goldennuggetonlinecasinos.org>,
 6 <www.goldennuggetonlinecasinos.info> <www.goldennuggetonlinecasinos.com> and
 7 <www.goldennuggetonlinecasinos.net> domain names (the "infringing domain names") and
 8 plaintiff's GOLDEN NUGGET mark and requiring the domain name registrar to lock the domain
 9 names at issue and the supporting memorandum of points and authorities, the supporting
 10 declarations and evidence, the record in this case, and for other good cause shown:

11 THE COURT FINDS AND CONCLUDES THAT:

12 This court has subject matter jurisdiction pursuant to 15 U.S.C. § 1121 and 28 U.S.C. §§
 13 1331 and 1338.

14 The court has personal jurisdiction over the defendants, and it appears the defendants
 15 regularly conduct business in the State of Nevada and/or defendants committed tortious acts
 16 that they knew or should have known would cause injury to plaintiff in the State of Nevada.

17 1. Plaintiff GNLV, Corp., a Nevada corporation with its principal place of business in
 18 Las Vegas, Nevada operates the Golden Nugget resort hotel casino in Las Vegas, Nevada. GNLV
 19 owns the mark GOLDEN NUGGET (the "GNLV marks") and has obtained federal registrations for
 20 the GNLV marks for various goods and services, including but not limited to:

- 21 (a) GOLDEN NUGGET for casino and bar services (U.S. reg. no. 1,554,155);
- 22 (b) GOLDEN NUGGET for nightclub, bar, cabaret and casino services (U.S. reg.
 23 no. 1,082,044);
- 24 (c) GOLDEN NUGGET for casino services (U.S. reg. no. 1,203,988); and
- 25 (d) GOLDEN NUGGET for hotel and resort hotel services (U.S. reg. no.
 26 2,240,084).

27 2. Plaintiff has made extensive use of the GOLDEN NUGGET marks on, among other
 28 things, signage, wearing apparel and sales and promotional materials.

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3. Based on its federal trademark registrations and extensive use, GNLV owns the exclusive right to use the GOLDEN NUGGET marks in connection with resort hotel, casino and related services. The extensive advertising and promotion of the "Golden Nugget" resort hotel casinos have resulted in the GOLDEN NUGGET name and marks being distinctive for resort hotel casino services;

4. Defendants have used GNLV's marks on its signage and on advertising and promotional materials to market its casino;

5. Defendants have used GNLV's marks as part of the internet domain names <www.goldennuggetonlinecasinos.us> <www.goldennuggetonlinecasinos.org>, <www.goldennuggetonlinecasinos.info> <www.goldennuggetonlinecasinos.com> <www.goldennuggetonlinecasinos.net> without plaintiff's authority or permission.

6. A preliminary injunction may be issued if plaintiff establishes : (1) the plaintiff will probably prevail on the merits; (2) plaintiff will likely suffer irreparable injury if relief is denied; (3) the balance of equities tips in plaintiff's favor; and (4) an injunction is in the public interest. *Winter v. Natural Res. Defense Council, Inc.*, 555 U.S. 7, 20 (2008). Alternatively, an injunction may issue under the "sliding scale" approach if there are serious questions going to the merits and the balance of hardships tips sharply in plaintiff's favor, so long as plaintiff still shows a likelihood of irreparable injury and that an injunction is in the public interest. *Alliance for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1134-35 (9th Cir. 2011)

7. "An injunction is a matter of equitable discretion and is an extraordinary remedy that may only be awarded upon a clear showing that the plaintiff is entitled to such relief." *Earth Island Inst. v. Carlton*, 626 F.3d 462, 469 (9th Cir. 2010) (internal quotation marks omitted).

8. A person shall be liable in a civil action by the owner of a mark if that person has a bad faith intent to profit from that mark, and registers, traffics in, or uses a domain name that is: (1) identical or confusingly similar to a mark that is distinctive at the time of the domain registration; or (2) identical or confusingly similar to or dilutive of a mark that is famous at the time of the use of the domain registration. 16 U.S.C. § 1126(d).

1 9. After consideration of the motion and plaintiff's complaint, and accompanying
 2 exhibits, the court finds and concludes plaintiff is likely to succeed on the merits of its claims under
 3 the Lanham Act that the <www.goldennuggetonlinecasinos.us>
 4 <www.goldennuggetonlinecasinos.org>, <www.goldennuggetonlinecasinos.info>
 5 <www.goldennuggetonlinecasinos.com> and < www.goldennuggetonlinecasinos.net> domain
 6 names demonstrate a bad faith intent to profit from the GOLDEN NUGGET mark and that the
 7 <www.goldennuggetonlinecasinos.us> <www.goldennuggetonlinecasinos.org>,
 8 <www.goldennuggetonlinecasinos.info> <www.goldennuggetonlinecasinos.com> and
 9 <www.goldennuggetonlinecasinos.net> domain names are confusingly similar to the plaintiff's
 10 mark, which was distinctive or famous at the time of the domain registration in May, 2013.

11 10. Plaintiff has demonstrated likelihood of success on the merits of its cybersquatting
 12 claims against Defendants under the Lanham Act, 15 U.S.C. § 1125(d).

13 11. Plaintiff has also demonstrated likelihood of success on the merits of its trademark
 14 infringement claims against defendants under the Lanham Act, 15 U.S.C. § 1114.

15 12. Plaintiff has also demonstrated likelihood of success on the merits of its unfair
 16 competition claims against defendants under the Lanham Act, 15 U.S.C. § 1125(a).

17 13. Plaintiff will suffer irreparable injury if the court does not require the domain name
 18 registrar GoDaddy.com (the "registrar") to lock the infringing
 19 <www.goldennuggetonlinecasinos.us> <www.goldennuggetonlinecasinos.org>,
 20 <www.goldennuggetonlinecasinos.info> <www.goldennuggetonlinecasinos.com> and
 21 <www.goldennuggetonlinecasinos.net> infringing domain names pending litigation of this matter.

22 14. Plaintiff has demonstrated that it will suffer irreparable harm if a preliminary
 23 injunction is not entered because defendants could transfer the infringing domain names to another
 24 registrant or registrar. Transfer of the infringing domain names to another registrant may deprive
 25 the court of jurisdiction and require plaintiff to file additional suits to recover its intellectual
 26 property. Transfer of the infringing domain names to another registrar may require plaintiff to
 27 expend significant effort and financial resources to track the registration.
 28

IT IS FURTHER ORDERED that the registrar and/or its success registrar remove all

1 exhibiting Domain Name Servers (DNS) entries and corresponding addresses, and enter the
2 registrar's default DNS and address entries to prevent further damage caused by the infringing use of
3 the infringing domain names.

4 IT IS FURTHER ORDERED that defendants shall file, pursuant to 15 U.S.C. § 1116(a), with
5 this court and serve upon plaintiff within thirty (30) days after entry of this order, a report in writing
6 under oath setting forth in detail the manner and form in which defendants have complied with this
7 court's order .

8 IT IS FURTHER ORDERED that the bond posted with this court in the amount of one
9 thousand and no/100 dollars (\$1000.00) shall be applied to this preliminary injunction.

10 The Court permits service of the preliminary injunction by electronic mail in addition to
11 effectuating service as required by Fed.R.Civ. P. 4 and 5.



12
13
14 UNITED STATES DISTRICT JUDGE

15 Date/Time: August 7, 2013

16
17 Respectfully submitted by:

18
19 GREENBERG TRAUIG, LLP

20 /s/ Laraine M.I. Burrell

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